

# LEVIN-EPSTEIN & ASSOCIATES, P.C.

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May 8, 2020

**Via Electronic Filing**

The Honorable Magistrate Judge Robert W. Lehrburger  
U.S. District Court Southern District of New York  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Perez, Jr. v. 33rd Street Investors I LLC. et al*  
**Case No.: 19-cv-01392-ALC-RWL**

Dear Honorable Magistrate Judge Lehrburger:

This law firm represents Defendant Wattle Cafe LLC (the “**Defendant**”) in the above-referenced action.

Pursuant to Rule I(F) of Your Honor’s Individual Motion Practices, this letter respectfully serves as a request to: (i) stay all existing deadlines *sin die*, pending the re-opening of the subject premises; and (ii) to extend the expert discovery deadline, which expired on May 7, 2020.

The undersigned wishes to apologize in advance for making this application less than 48 hours prior to the May 7, 2020 expert discovery deadline. This basis of the delay is that the undersigned requested Plaintiff’s consent to make the instant application, and was waiting to receive a response. As of the date of this letter, Plaintiff has neither consented nor objected to the request sought herein.

This letter is made, however, on consent of co-Defendant 33rd Street Investors I LLC.

This is the first request of its nature.

The basis of the request is that the subject premises is not operating due to the COVID-19 pandemic. Fact discovery into Plaintiff’s allegations, including the injunctive relief for ADA violations sought, is not possible. Specifically, the parties are not able to schedule any third-party inspections into the subject premises, which is critical in these types of cases.

Because the Defendants do not currently own, lease or operate a place of public accommodation, Defendant respectfully submits that the action is temporarily mooted. *See Francis v. 951-953 Amsterdam Ave. LLC et al*, 16-cv-07535 (S.D.N.Y. 2017) at Dckt. No. 25 (granting motion to dismiss for lack of subject matter jurisdiction on the basis that subject facility had closed). Accordingly, Defendant respectfully requests that all existing deadlines be stayed *sine die* until the subject premises reopens to the public.

Thus, Defendant respectfully requests to: (i) stay all existing deadlines *sin die*, pending the re-opening of the subject premises; and (ii) to extend the expert discovery deadline, which expired on May 7, 2020.

Thank you, in advance, for your time and attention.

Respectfully submitted,

LEVIN-EPSTEIN & ASSOCIATES, P.C.

By: /s/ Jason Mizrahi

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Cc: All Parties via ECF